

(Internet)

Withdrawn

Page _____ of _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 76322

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant City of Rathdrum Phone 687-0261

Post Office address 8047 W Main St. Rathdrum, Idaho 83858

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☒ Other change source from surface to ground
2. Describe the reason for the proposed changes to transfer the water right from surface water to ground water and to allow the use of this water right from any well, including new wells within the system.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

- | 1. | Right Number | Priority | Amount
(cfs/ac-ft) | Nature
of Use | Period of Use |
|-----------|--|-----------------|-------------------------------|------------------------------|----------------------|
| | 95-966 | 01/01/1880 | 1.0 | Municipal | 01/01 to 12/31 |
| | | | | | to |
| | | | | | to |
| | | | | | to |
| | | | | | to |
| 2. | Total amount of water being transferred | | 1.0 | cubic feet per second and/or | acre-feet per annum |
| 3. | Source of water | | Spring Branch Creek | tributary to | Rathdrum Creek |
| 4. | Point(s) of Diversion: | | | | |

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NE	SW		31	52N	04W	Kootenai	Pine Well
	NE	NE		1	51W	04W	Kootenai	Grange Well
	NE	SE		6	51N	04W	Kootenai	Thayer Well 1 NENE OR SENE
	NW	SW		5	51N	04W	Kootenai	Thayer Well 2

5. Lands irrigated or place of use: Within the entire City of Rathdrum, service area, and area of city impact.

[illegible]

SCANNED

FEB 19 2010

Total acres _____

Withdrawn

Page _____ of _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 76322APPLICATION FOR TRANSFER OF WATER RIGHT
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Post Office address 8047 W Main St. Rathdrum, Idaho 83858

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| | | | | to |
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	NE	NE		1	51W	04W	Kootenai	Grange Well
	NE	SE		6	51N	04W	Kootenai	Thayer Well 1 <u>NENE OR SE NE</u>
	NW	SW		5	51N	04W	Kootenai	Thayer Well 2

5. Lands irrigated or place of use: Within the entire City of Rathdrum, service area, and area of city impact

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

PART 1**6. General Information:**

- a. Description of diversion system the city of Rathdrum ground water system consists of 4 wells and a piped distribution system.

- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes X No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

No change

d. Remarks:

The purpose for the transfer is to allow the City to divert the water rights from the aquifer and to utilize the water rights in locations throughout the service area, and area of city impact consistent with the concentration of development within the service area, and area of city impact.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 95-966 Decreed to City of Rathdrum
in case of _____ vs. _____
dated 04/19/1989 in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Spring Branch Creek tributary to Rathdrum Creek

4. Date or priority 01/01/1880

5. Water is used for the following purpose: See Attachment

amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 1.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

8. Lands irrigated or place of use: To be used in entire City of Rathdrum, and area of city impact

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

9. Describe any other water rights used for the same purpose as described above 96-7047, 95-7881, and 95-4403

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
 _____ If yes, describe See attachment

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

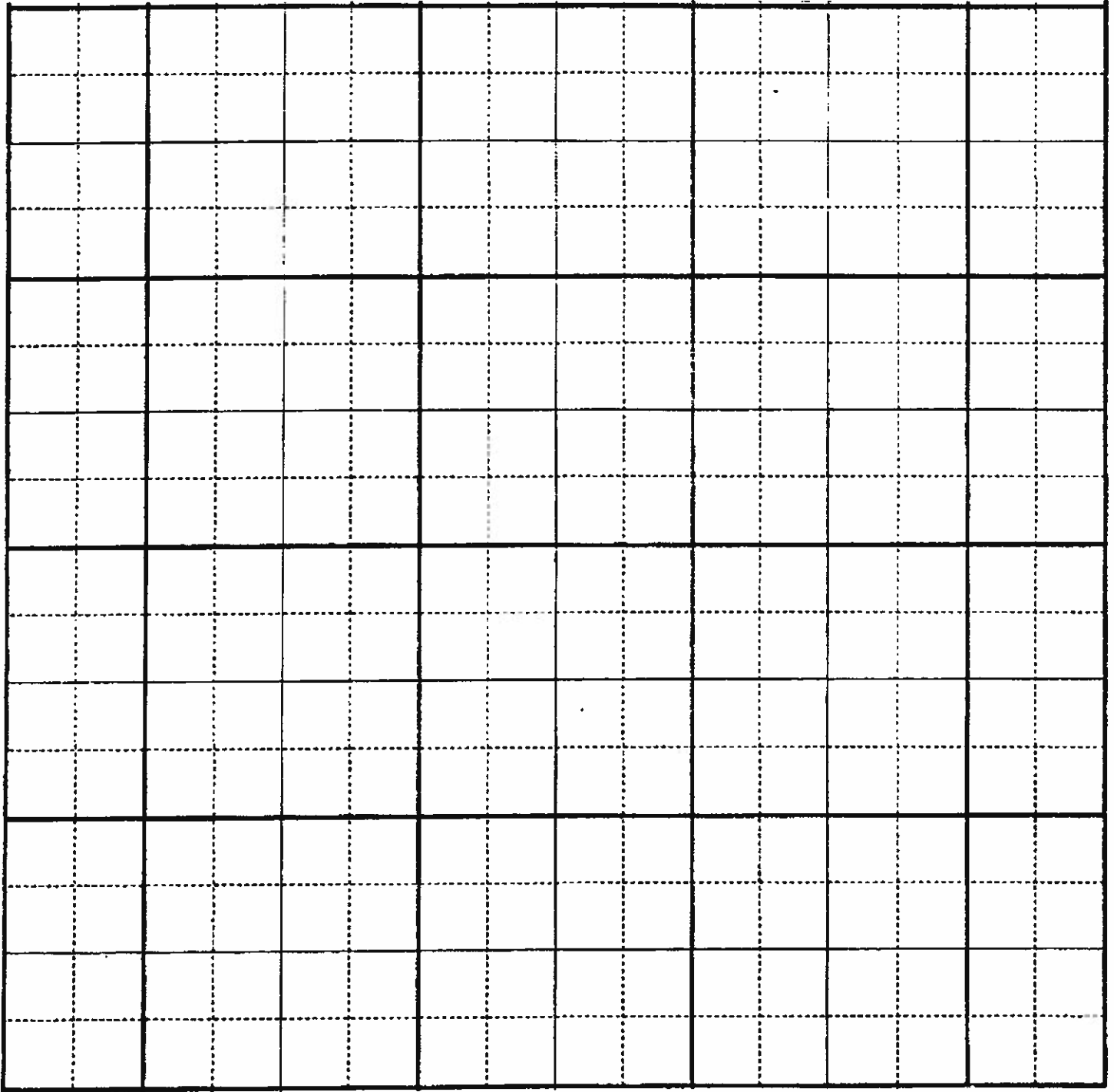
3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.**



SCALE: 2 inches equal 1 mile. Draw plan in ink.

PART 3**B. CHANGES IN NATURE OF USE**

1	<u>New Nature of Use</u>	<u>Amount (cfs/ac-ft)</u>	<u>Hours/days/year</u>	<u>Period of Use</u>
	_____	_____	_____	_____ to _____
	_____	_____	_____	_____ to _____

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

(Signature of Applicant)

Subscribed and sworn to before me this _____ day of _____, 19 _____.

(Notary Public)

My commission expires _____

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by db Date 11/8/05 Protest filed by _____

Prelim. check by _____ Fee \$250.00

Received by db Date 11/8/05 #NO17257

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

**ATTACHMENT TO WATER RIGHTS TRANSFER APPLICATION RELATING TO
WATER RIGHT NO. 95-966**

It is the desire of the city of Rathdrum to have the surface water rights pursuant to Water Right No. 95-966 transferred to ground water rights. Since water from Rathdrum Creek flows into the Rathdrum Prairie Aquifer, and Rathdrum Creek is tributary to Spring Branch Creek, transferring the surface water rights under Water Right No. 95-966 to ground water rights is in essence dealing with the same water, just diverting it from a different location.

Although water hasn't been diverted from Spring Branch Creek by the city of Rathdrum over the past several years, that lack of diversion falls within the exceptions to forfeiture under Idaho Code 42-223(6) that states as follows:

No portion of any water right shall be lost or forfeited for nonuse if the nonuse results from circumstances over which the water right owner has no control. Whether the water right owner has control over nonuse of water shall be determined on a case-by-case basis.

Rathdrum was unable to use the water from Spring Branch Creek for municipal purposes over the last several years due to DEQ regulations. The public drinking water regulations promulgated by the Idaho Department of Environmental Quality contained in IDAPA 58.01.08 and Code of Federal Regulations (CFR), Title 40, Parts 141 and 143 incorporated by reference by the state as part of the Idaho Rules for Public Drinking Water Systems place upon the city of Rathdrum requirements for the use of water from Spring Branch Creek as drinking water regulations that the City has been unable to meet due to circumstances that are out of the control of the City. The City's water system is not filtered. Pursuant to 40 CFR 141.71 the City would have to have to treat the water and maintain a watershed control program. As part of that watershed control program the City would have had to have had to demonstrate through ownership and/or written agreements with landowners that it can control all human activities that would have an adverse on the microbiology quality of the source water. The location of the watershed is outside of the Rathdrum city limits and the jurisdiction of the City. Although the City owns a portion of the land, the City doesn't have any regulatory authority over the other property owners within the watershed and has no ability to require those property owners to limit their activities that have an impact on the watershed.

Transferring the water right from surface water to ground water will allow the City to divert the same water that was permitted originally as surface water, but after it has entered the aquifer and take advantage of the natural filtration process that occurs as the water passes through the geological formations into the aquifer.

Transfer No. 76322
Receipt No. _____

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2**

Current Water Right No. 95-966

Priority Date: 01/01/1880
Origin: Water Right
Basis: Decreed
Status: Active

Source: SPRING BRANCH CREEK **Tributary to:** RATHDRUM CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
MUNICIPAL	1/01	12/31	1.00 CFS		
	Total Diversion		1.00 CFS		

Source and Point(s) of Diversion:

SPRING BRANCH CREEK SWNE 52N 05W 25 KOOTENAI

Conditions/Remarks:

1. PLACE OF USE WITHIN CITY LIMITS OF RATHDRUM.

Documentation of Ownership of the Current Place of Use

Is this property subject to any liens, deeds of trust, mortgages, or contracts or other encumbrances?

Describe the affect on the current place of use for this water right if the place of use is changed pursuant to this transfer

To your knowledge, has any portion of the water right undergone a period of five(5) or more consecutive years of non-use?

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2**

Transfer No. 76322
Receipt No. NO17257

Current Water Right No. 95-966

Priority Date: 01/01/1880
Origin: Water Right
Basis: Decreed
Status: Active

Source: SPRING BRANCH CREEK **Tributary to:** RATHDRUM CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
MUNICIPAL	1/01	12/31	1.00 CFS	450.0 AFA	
	Total Diversion		1.00 CFS		

Source and Point(s) of Diversion:

SPRING BRANCH CREEK SWNE 52N 05W 25 KOOTENAI

Conditions/Remarks:

1. PLACE OF USE WITHIN CITY LIMITS OF RATHDRUM.

Documentation of Ownership of the Current Place of Use

Is this property subject to any liens, deeds of trust, mortgages, or contracts or other encumbrances?

Describe the affect on the current place of use for this water right if the place of use is changed pursuant to this transfer

To your knowledge, has any portion of the water right undergone a period of five(5) or more consecutive years of non-use?

WITHDRAWAL
OF
APPLICATION FOR TRANSFER OF WATER RIGHT(S)

I/We, City of Rathdrum and _____,
(Applicant's Printed Name) (Applicant's Printed Name)

_____ and _____,
(Applicant's Printed Name) (Applicant's Printed Name)

hereby withdraw our Application for Transfer No. 76322 of Water Right

No(s). 95-966

Signed this 10th day of February, 20 2010

RECEIVED

FEB 10 2010

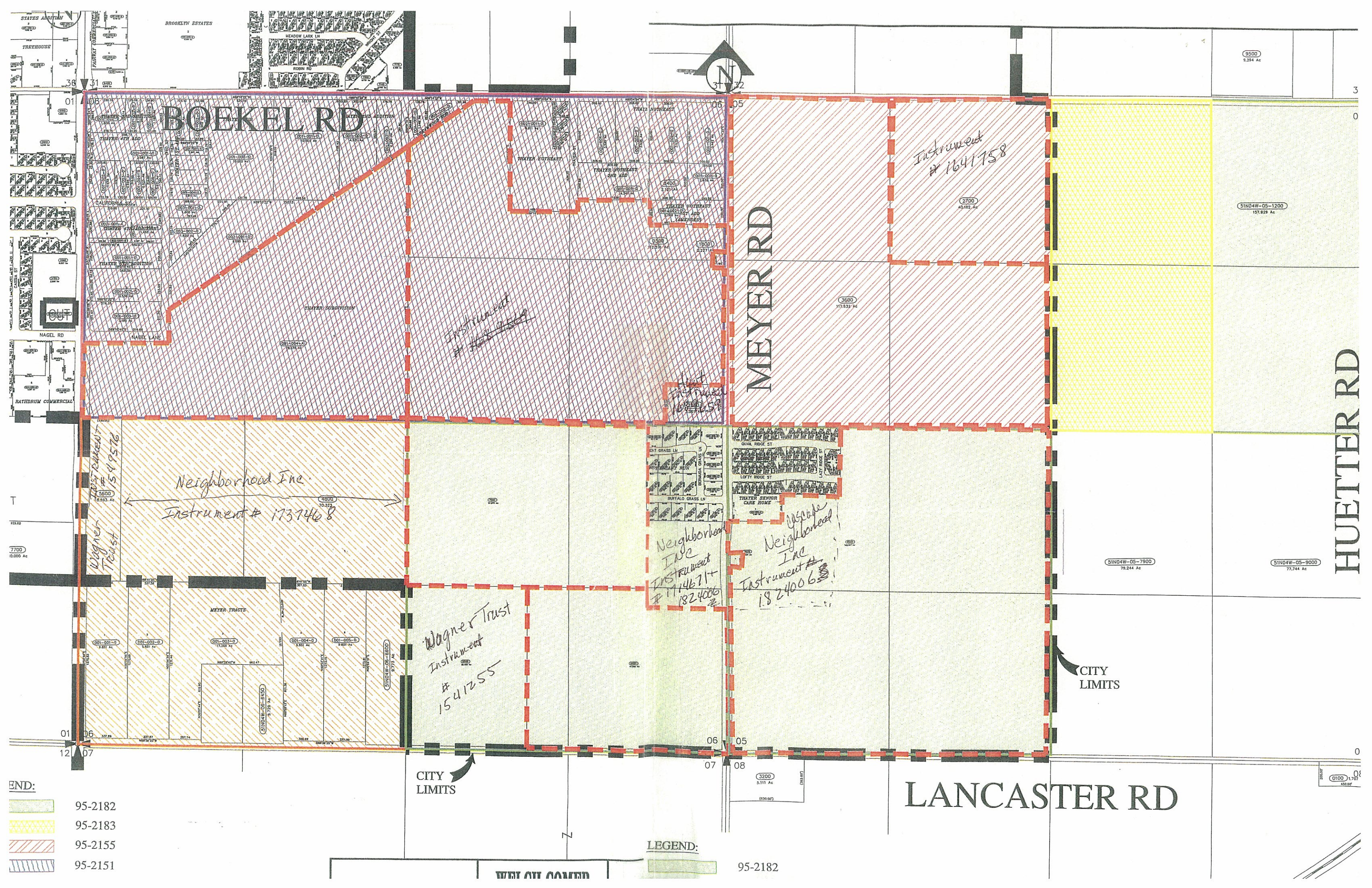
IDWR/NORTHERN

Nancy Stricklin, City Attorney
(Signature/Title of Applicant)

(Signature/Title of Applicant)

(Signature/Title of Applicant)

(Signature/Title of Applicant)



BOEKEL RD

MEYER RD

HUETTER RD

LANCASTER RD

Instrument # 1641758

Instrument # 1641758

Neighborhood Inc.
Instrument # 1737468

Neighborhood Inc.
Instrument # 1714671

Neighborhood Inc.
Instrument # 1824006

Wagner Trust
Instrument # 1541255

Wagner Trust
Instrument # 1549576

SIN04W-05-7900
79.244 Ac

SIN04W-05-9000
77.744 Ac

9500
9.394 Ac

SIN04W-05-1200
157.929 Ac

2700
40.102 Ac

3600
117.832 Ac

001-001-D
9.601 Ac

001-002-D
9.601 Ac

001-003-D
17.268 Ac

001-004-D
9.601 Ac

001-005-D
9.601 Ac

SIN04W-05-1600
9.773 Ac

SIN04W-05-1450
9.773 Ac

3200
5.111 Ac

95-2182

END:

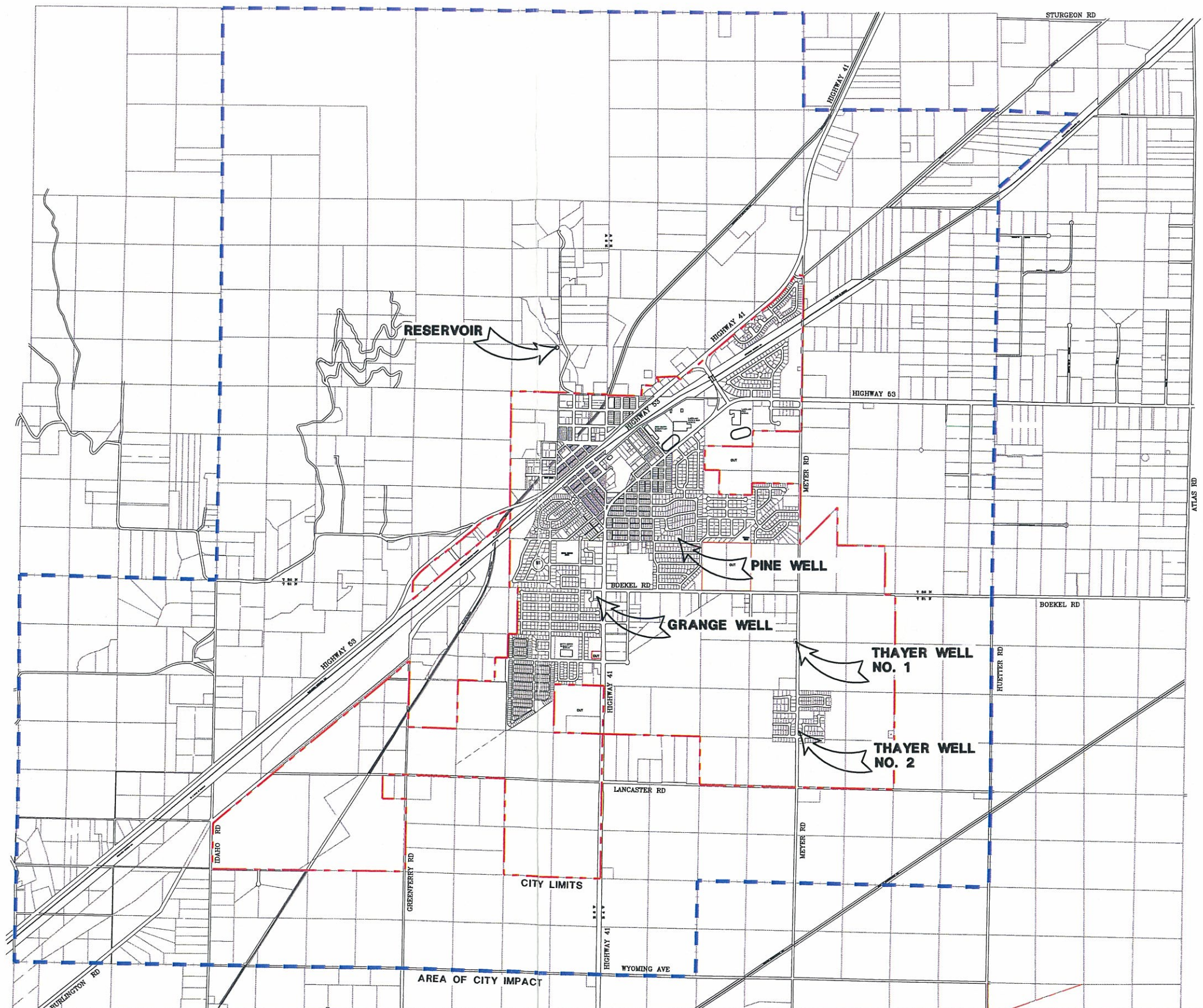
- 95-2182
- 95-2183
- 95-2155
- 95-2151

LEGEND:

CITY LIMITS

CITY LIMITS

WELCH AVENUE



WELCH COMER
& ASSOCIATES, INC.
ENGINEERS & SURVEYORS
1626 Lincoln Way, Coeur d'Alene, Idaho 83814
Phone (208) 664-9382 Fax (208) 664-5946

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LINE IS ONE INCH ON ORIGINAL DRAWING IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY
PROJECT NO.: 1035
DESIGNED BY: L.C.
DRAWN BY: J.A.L.
CHECKED BY:

NO.	DATE	REVISION DESCRIPTION	BY

CITY OF RATHDRUM
KOOTENAI COUNTY, IDAHO

WELL LOCATION MAP

DWG NAME: 1035DS50.DWG
DATE: 07-06-05
SHEET NO:

The revision dates below represent the file save dates for the posting of the listed revisions.
The archive dates for these revisions are posted within the ARCHIVE REVISIONS box in the drawing title block.

[illegible]

DATE	ACTIVITY	INITIALS
10-11-44	DRYING	W
10-12-44	DRYING	W
10-13-44	DRYING	W
10-14-44	DRYING	W
10-15-44	DRYING	W
10-16-44	DRYING	W
10-17-44	DRYING	W
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12-25-44	DRYING	W
12-26-44	DRYING	W
12-27-44	DRYING	W
12-28-44	DRYING	W
12-29-44	DRYING	W
12-30-44	DRYING	W
12-31-44	DRYING	W

[illegible]

LOCATION OF HEADS 2-OWN ARE BASED ON AVAILABLE
ROAD INFORMATION AND MAY OR MAY NOT BE PRECISE.

Records of Survey used:

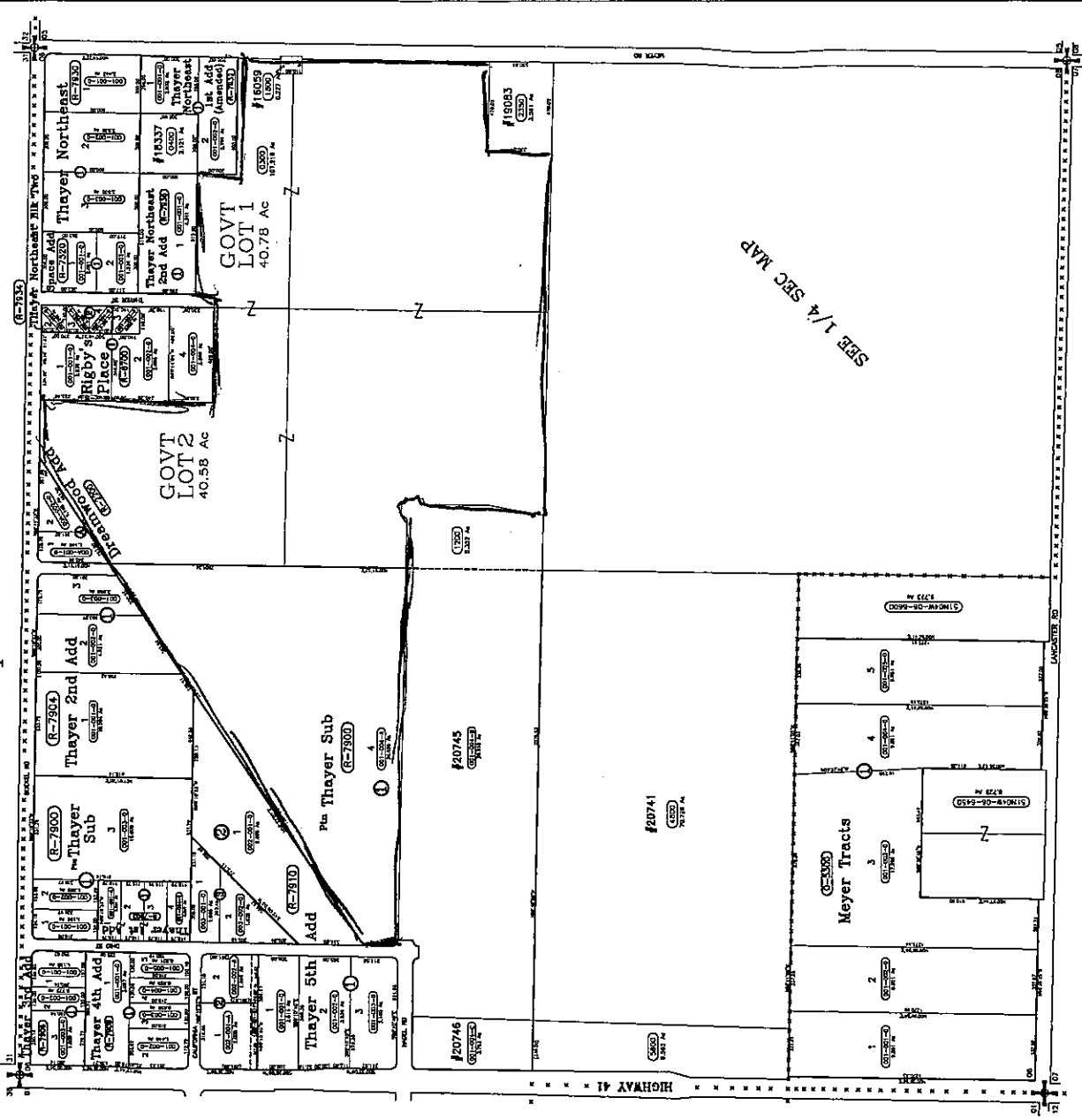


6	6	6	6	1
9	9	3	15	11
14	19	42	19	24
19	26	31	56	54
30	36	36	97	60
51	56	36	96	96

MOOTENAI COUNTY
IDAHO

KOOTENAI COUNTY
IDAHO

R-0000-006



SEE 1/4 SEC MAP

SCALE: 1 INCH = 400 FEET

FILENAME: 514V06(extension)

Sec. 6 Twp. 51 N. R. 4 W. B. M.

MASON & STRICKLIN, LLP
LAWYERS

JERRY D. MASON
jerry@mslawid.com

NANCY STRICKLIN
nancy@mslawid.com

Heather Vestal, Office Manager
manager@mslawid.com

February 10, 2010

Idaho Department of Resources
7600 Mineral Drive, Suite 100
Coeur d'Alene, ID 83814
Attention: Chad Goodwin

RE: City of Rathdrum

Dear Mr. Goodwin:

On November 8, 2005, on behalf of the City of Rathdrum I filed an application for transfer of Water Right 95-966 and paid the application fee of \$250.00 (Receipt N017257). Subsequent to that date, and prior to any action being taken on the transfer application, the North Idaho Adjudication was commenced and the transfer issue was addressed in the Notice of Claim instead.

On behalf of my client, the City of Rathdrum, I submitted a Withdrawal of Application for Transfer on February 10, 2010 and am requesting that the \$250.00 that was submitted in 2005 be refunded. Attached is a copy of the Receipt, as well as the Withdrawal Application. Please make the refund check out to the following: City of Rathdrum, 8047 W. Main St. Rathdrum, Idaho 83858.

Please forward this request to the appropriate individual for processing. If you have any question, you may contact me at (208) 667-1300.

Yours truly,



Nancy Stricklin

Encl. Receipt N017257
Withdrawal of Application for Transfer

c: Brett Boyer, City Administrator
Melissa Taylor, City Clerk/Treasurer